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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/025,307	12/19/2001	Paul Joseph Datta	15,701	3399

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EXAMINER

BOGART, MICHAEL G

ART UNIT	PAPER NUMBER
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3761

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DATE MAILED: 03/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/025,307

Applicant(s)

DATTA ET AL.

Examiner

Michael G. Bogart

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 33-41 is/are allowed.
- 6) ☒ Claim(s) 1,2,8,10,16-18,24,26,32,42,43 and 46 is/are rejected.
- 7) ☒ Claim(s) 3-7,9,11-15,19-23,25,27-31,44,45 and 47 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 December 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Drawings

This application lacks formal drawings. The informal drawings filed in this application are acceptable for examination purposes. When the application is allowed, applicant will be required to submit new formal drawings.

Claim Objections

Claims 15 and 31 are objected to because of the following informalities:

In line 3 of each claim, before "said", insert --of--.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. § 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

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invention was made in order for the examiner to consider the applicability of 35 U.S.C. § 103(c) and potential 35 U.S.C. § 102(e), (f) or (g) prior art under 35 U.S.C. § 103(a).

Claims 1, 2, 8, 10 and 16 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Milby, Jr. *et al.* (US 5,527,303 A) in view of Olsson *et al.* (US 5,746,732 A).

Regarding claims 1 and 2, Milby, Jr. *et al.* teach a diaper (20) comprising a substantially liquid-impermeable stretchable outer cover (26) configured to provide a first level of elongation (Abstract);

a liquid-permeable stretchable (Col. 5, lines 32-61, describing topsheet materials that are inherently stretchable) top surface (24) attached to said stretchable outer cover (26); said stretchable top surface (24) having a first zone (entire topsheet) that is configured to provide a second level of elongation that is less than the first level of elongation;

an absorbent body (28) located between said stretchable outer cover (26) and said stretchable top surface (24)(see Fig. 2, below).

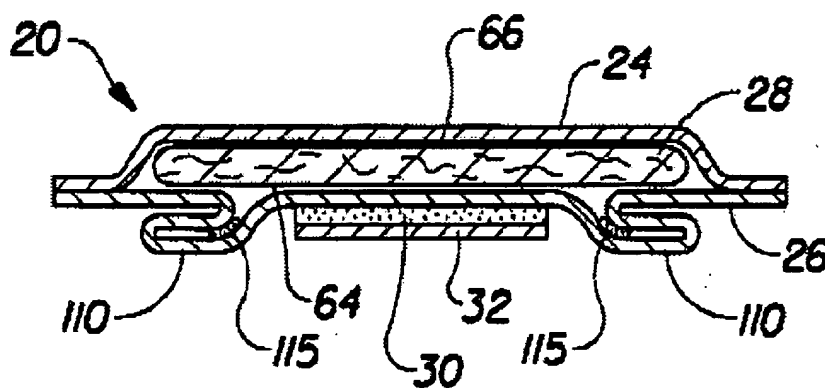


Fig. 2

Milby, Jr. *et al.* therefor teach the claimed invention except for a containment component attached to the surface of the pad.

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Olsson *et al.* teach a diaper with side containment flaps (13, 14) on its top surface (Fig. 1). It is well known in the art to add side flaps to a diaper to impair leakage (Olsson *et al.*, Abstract).

At the time of the invention, it would have been obvious to add the side flaps of Olsson *et al.* to the diaper as taught by Milby, Jr. *et al.* in order to improve the leakage containment abilities of the diaper.

Regarding claim 8, Milby, Jr. *et al.* teaches a heat settable bodyside liner (col. 5, lines 62-67).

Regarding claim 10, Milby, Jr. *et al.* teach a first zone (24) that overlaps the absorbent body (28)(Fig. 2).

Regarding claim 16, Milby, Jr. *et al.* teach a back sheet (26) that elongates more than the topsheet (24) when the absorbent body (28) expands (Fig. 2).

Claims 17, 18, 24, 26 and 32 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Milby, Jr. *et al.* and Olsson *et al.* as applied to claims 1, 2, 6, 10 and 16 above, and further in view of Widlund *et al.* (US 6,461,344 B1).

Milby, Jr. *et al.* and Olsson *et al.* teach the claimed invention except for a pair of fasteners refastenably attaching lateral side edges of the diaper prior to packaging.

Regarding claims 17 and 18, Widlund *et al.* teach prefastening a refastenable diaper prior to packaging (Col. 2, lines 4-19).

At the time of the invention, it would have been obvious to one of ordinary skill in the art to select the prefastened packaging methods of Widlund *et al.* as the means of packing the diaper

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as taught by Milby, Jr. *et al.* and Olsson *et al.* in order to provide a compact shape (Widlund *et al.*, Fig. 13 C).

Regarding claim 24, Milby, Jr. *et al.* teaches a heat settable bodyside liner (col. 5, lines 62-67).

Regarding claim 26, Milby, Jr. *et al.* teach a first zone (24) that overlaps the absorbent body (28)(Fig. 2).

Regarding claim 32, Milby, Jr. *et al.* teach a back sheet (26) that elongates more than the topsheet (24) when the absorbent body (28) expands (Fig. 2).

Claims 42, 43 and 46 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Clear *et al.* (US 5,575,783 A) in view of Olsson *et al.*

Regarding claims 42 and 43, Clear *et al.* teach a diaper (20) comprising a substantially liquid-impermeable stretchable outer cover (26);

a liquid-permeable stretchable top surface (24) attached to said stretchable outer cover (26); said stretchable top surface (24) having a first zone (central crotch region) and a second zone (34)(Col. 8, lines 1-7) wherein said first zone provides a level of elongation that is less than the level of elongation provided by the second zone (34);

an absorbent body (28) located between said stretchable outer cover (26) and said stretchable top surface (24).

Clear *et al.* therefor teach the claimed invention except for a containment component attached to the surface of the pad.

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Olsson *et al.* teach a diaper with side containment flaps (13, 14) on its top surface (Fig.

1). It is well known in the art to add side flaps to a diaper to impair leakage (Olsson *et al.*, Abstract).

At the time of the invention, it would have been obvious to add the side flaps of Olsson *et al.* to the diaper as taught by Clear *et al.* in order to improve the leakage containment abilities of the diaper.

Regarding claim 46, Clear *et al.* teach a first zone that overlaps the absorbent body (Fig. 2).

Allowable Subject Matter

Claims 33-41 are allowed.

Claims 3-7, 9, 11-15, 19-23, 25, 27-31, 44, 45 and 47 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Bogart whose telephone number is (703) 605-1184. The examiner can normally be reached Monday-Friday.

The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 746-3380 for informal communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0858.



Michael Bogart
February 13, 2004



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